

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to the Iowa byways program and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 132, “Iowa Byways Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 306D.4 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 306D.

Purpose and Summary

This proposed rule making makes various updates within Chapter 132 to clarify the purpose of the Iowa Byways program so that prospective byway applicants will better understand the program’s intent prior to seeking designation.

The defined evaluation process is proposed to be modified from a formal review process to a stakeholder review and Department evaluation to provide for more flexibility for representatives of existing byways and other stakeholders to participate in the process in order to leverage their expertise in reviewing proposed new routes. This proposed change includes removal of the definition of “advisory council” and the addition of the definition of “stakeholder.”

The Department’s and roadway jurisdiction’s responsibilities for sign replacement costs are proposed to be clarified for signs, materials, and labor.

The proposed amendments also remove a formal four-year application cycle and move to a discretionary solicitation so that the Department is not administratively burdened and potential applicants meeting the purpose of the program may not need to wait four years to apply.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on January 5, 2023, via conference call at 9 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 3, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—132.1(306D) as follows:

761—132.1(306D) Purpose, overview and information.

132.1(1) Purpose. The purpose of the Iowa Byways program is to designate and support qualifying Iowa roads as byways on the basis of scenic byway, heritage byway, or a combination of scenic and heritage byway qualities. These designations are intended ~~both~~ to preserve the state's scenic, natural, and historic resources; ~~and~~ to support economic development through travel and tourism; to highlight distinctive experiences; and to maintain the integrity of the Iowa Byways program.

132.1(2) Overview. Under the Iowa Byways program, proposed routes are identified via an application process. The department inventories ~~and evaluates~~ the proposed routes. ~~The advisory council recommends the routes to be designated by the department and consults with program stakeholders before evaluating those routes for designation.~~ The department provides identifying signs for the designated routes. Routes designated as an Iowa Byway are part of Iowa's scenic byway program and are therefore subject to the prohibition set forth in 23 U.S.C. Section 131(s).

132.1(3) Information and forms. Information, instructions and application forms may be obtained from the ~~Office of Systems Planning Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; by telephone at (515)239-1664; or through the department's website at www.iowadot.gov.

ITEM 2. Rescind the definition of "Advisory council" in rule **761—132.2(306D)**.

ITEM 3. Adopt the following new definition of "Stakeholder" in rule **761—132.2(306D)**:

"*Stakeholder*" means a group, state agency, local jurisdiction or organization with a vested interest in the Iowa Byways program or that may be impacted by the designation of a route. Examples may include but are not limited to an adjacent scenic, natural or historic resource or other tourism attraction; other

designated Iowa Byways; private associations related to economic development or outdoor advertising; and organizations charged with the marketing of the state, regions or localities for tourism purposes.

ITEM 4. Amend subrule 132.3(5) as follows:

132.3(5) The initial installation of signs identifying an Iowa Byway including the accompanying posts and hardware necessary for installation shall be paid for and furnished by the department. Each roadway jurisdiction is responsible for the inventory, and maintenance, and reinstallation of signs provided by the department following the initial installation. The department will provide replacement signs for those that are damaged or missing and will be responsible for reinstallation on primary roads. The roadway jurisdiction will be responsible for reinstallation on secondary roads and city streets.

ITEM 5. Amend rule 761—132.4(306D) as follows:

761—132.4(306D) Application and approval process.

132.4(1) *Program cycle.* ~~The Iowa Byways program shall operate on a four-year cycle, with applications due by October 1, 2020, and every fourth year thereafter~~ department may periodically announce a solicitation of applications for designation as demand and interest requires. Field inventories, evaluation, and rating of proposed routes will follow with precede the designation of any new routes completed by the next application deadline.

132.4(2) *Application.* Application to designate a route as an Iowa Byway or to propose an extension or loop to an existing route shall be on a form provided by the department and shall be received by the department by the stated application deadline included in the solicitation. The application must be accompanied by a formal resolution described in subrule 132.3(4). Applications must provide some discussion of the planned administration and governance of the proposed Iowa Byway as well as how the byway will be marketed to visitors.

132.4(3) *Initial review.* ~~Applications shall be reviewed by the advisory council to acquaint the council members with the proposed routes and to allow the members an opportunity to provide the department with information from their areas of expertise. Such input may provide details related to Program stakeholders will be consulted to gather information on the existence and quality of scenic, archaeological, cultural, historic, natural, and recreational resources along a proposed route; the proposed route's contribution to a diversity of experiences along designated routes; and the overall impact of the proposed route on the program's integrity.~~

132.4(4) and 132.4(5) No change.

132.4(6) *Selection.* ~~The advisory council shall review the evaluations and recommend routes to be designated as Iowa Byways based on this information and any other information the council may have obtained regarding the routes.~~

132.4(7) **132.4(6)** Designation. The department shall review the evaluations and will consider designating routes recommended by the advisory council as Iowa Byways based on this information.

132.4(8) **132.4(7)** Signing. Upon the designation of Iowa Byways, the department will proceed with the initial design and installation of signage identifying new Iowa Byways.